

Judge Orders U.S. To Issue Passport In Loyalty Oath Suit

By BENJAMIN WELLES

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WASHINGTON, April 28—A Federal judge ordered the State Department today to issue a passport to a medical journalist who has refused to take a loyalty oath.

The journalist — Allan L. Fletcher, 57 years old—had refused to take the statutory oath of allegiance printed on all passport forms. It binds one to defend the Constitution from its enemies.

In a two-page letter of protest to the State Department, Mr. Fletcher described the oath—and various alternatives permitted under State Department regulations—as meaningless.

The United States role in the war in Southeast Asia and the Administration's policy of "anti-Communism" are, Mr. Fletcher charged, "ill-conceived and immoral" and themselves violations of the Constitution.

When the State Department refused to process his passport application, Mr. Fletcher and others filed suit.

Native of New Jersey

United States District Judge Thomas A. Flannery of the District of Columbia issued a preliminary injunction today that in effect ordered the department's passport office to continue processing Mr. Fletcher's application. The passport office was also directed to issue the document to him in time for his scheduled trip to Europe

next month to cover medical conventions in Amsterdam and Venice.

Mr. Fletcher, who is a native of Leonia, N. J., and ran unsuccessfully in 1965 for the New Jersey State Senate as a Democrat, was traveling today, and unavailable for comment.

Douglas Melamed, of the Washington law firm of Wilmer, Cutler & Pickering, which represented Mr. Fletcher, said that his was one of five similar cases pending.

The State Department had no immediate comment on the order. But qualified sources who asked not to be identified said that the question whether or not to require passport applicants to take an oath to defend the Constitution had long been a problem.

"The oath of allegiance was started in the Civil War," one official said. "In 1966, when we shortened the passport forms, we dropped it. Some people grumbled these, so we made it optional. But we didn't tell anyone it was optional until they protested."

Last August, Federal Judge June L. Green ordered the State Department, in effect, either to drop the oath or make it mandatory. On Oct. 31, Secretary of State William F. Rogers decreed that the oath once more be made obligatory.